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DEBRA D. SACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Atheal Pierce

Plaintiff,

v.

American General Finance, Inc.,

And others to be named

Defendants.

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Case Number 2:06-cv-0985-WKW

Atheal Pierce's objection to the report and recommendation of the
magistrate judge

A STATEMENT OF THE CASE

The nature of the suit: Atheal Pierce filed a lawsuit against American General and "**others to be named**" in the amended complaint. American General received the complaint and the employee of American General issued a threat to Atheal Pierce. Thereafter, American General employee filed a 12-b-6 motion. Atheal Pierce filed a motion seeking relief from the American General threat and a ruling on said motion; including, the permission to amend Pierce's initial complaint. American General employee filed a reply response. The magistrate judge issued a recommendation in favor of American General.

Pierce's Objection to the magistrate's recommendation

1. The recommendation was issued prematurely.
2. The recommendation did not consider the show cause documents and affidavits when reaching its recommendation.

3. The recommendation is talking about American General US 42-1983 dictum and not the legal theory(s) involving Pierce's lawsuit.

Pierce's Statement of the issue(s) presented and relief

1. Did the district court resolve the "threat" notice and motion prior to imposing a penalty of dismissal recommendation upon the legal complaint of Pierce and Pierce's announced intent to amend the complaint, but for, the threat of American General?

Pierce's answer is NO.

Argument involving this case record evidence and submissions

The honorable magistrate judge's recommendation seems to not include any of the show cause pleadings of Atheal Pierce. Pierce provided the magistrate judge with the following and essential documentation with affidavit attached. In the order of impact some include:

- 1 The right to sue letter. This letter details the right of Pierce to sue the government. The content of the right to sue establishes that Pierce sought damages from the government and all of which are associated with American General and a federal employee.
- 2 The Bankruptcy document. This document supports the right of Pierce to sue American General. Bankruptcy judge Williams' final published opinion advises Pierce and American General to take concerns beyond bankruptcy to COURT.

- 3 The Alabama Supreme Court document. It shows that Pierce filed a reply pleading to American General which informs the reader that Pierce seeks federal court relief surrounding foreclosure, redemption and other matters that are not before the state court. The pleading clearly and expressly gives notice of federal and state separation of lawsuit claims.
- 4 The Montgomery County Circuit court document. It shows that American General's case against Pierce was dismissed with bankruptcy language as authority.

The Federal court case docket involving the bankruptcy appeal involving the interest of American General and Atheal Pierce. It clearly shows the proceedings involving the actions of Pierce in appeal and the action of American General in appeal form.

5. All case action state court case action summaries and all federal court case dockets. They clearly inform the reader that there exist a causal connection between Pierce and American General, which permits redress of grievance claims.

Argument

Prior to the recommendation of the magistrate, Pierce was duty bound to withstand the 12-b-6 motion of American General. Pierce not only filed a motion for relief from the threat of American General but also

provided this district court with volumes of key court documentation to support the complaint of Pierce.

A selected standard of review in this case arise pursuant to the 12-b-6 motion of American General. It is well understood that the 12-b-6 responding party must be aware that all facts set forth in a complaint are to be accepted as true. See *Oxford Asset Management, Limited v. Jaharis*, 297 F 3d 1182, 1182, (11th Cir. 2002). The procedural due process is in this case is: Can the plaintiff prove a set of facts that would support the claims in his complaint. Pierce believes the complaint and show cause submissions are well and safely before this court and due to be considered. The causal connection is clear; American General filed a dispositive pleading after threat to Pierce. The dispositive pleading of American General contained an arbitration claim. In response, Pierce furnished this court with a document showing Pierce experience with arbitration in opposition to the arbitration claims of American General. At stake is, did American General violate Pierce's protect able rights involving arbitration long before American General sought to use arbitration. Also, on each and every docket sheet and case action summary sheet submissions, American General has not respected the arbitration matters of Pierce.

American General pleaded a lot of information about the circuit case but Pierce provided this court with an Order, which show that

American General's case was dismissed. Pierce also provided this court with a document showing that bankruptcy language was at stake involving the final resolution, which lead to dismissal of American General's complaint.

American General pleaded a lot of information about the bankruptcy case but Pierce provided a docket sheet, which clearly shows that the theft of Pierce's bankruptcy appeal was stolen and later, posted as having been filed untimely. Never mind the position that if you steal the appeal then there is no appeal and no opportunity to file a stay of bankruptcy proceedings. Judge Thompson corrected the bankruptcy matter when he finally discovered that American General would stand to unlawfully carry out a foreclosure claims due to Pierce's failure to file appeal and stay of proceedings. The docket sheet provided show that the appeal to the bankruptcy court was timely filed and thus any action proceeded during the switch of appeal documents would be proven fraud and void as a transgression of the civilized law.

The state court summary of the case clearly shows that the Hobbs court was confronted with American General's desire to proceed against Pierce and the monetary interest of Pierce. What American General is not telling this court is that Ms. Griggs was the employee of American General for both the state and federal cases involving Pierce. The casual connection is clearly seen in view of the fact that Griggs would do

anything in federal court with federal employees to satisfy Hobbs requirement to get rid of Pierce's bankruptcy protection are face dismissal of the state case. Further, Griggs had to get a federal employee to take the appeal of Pierce to get rid of Pierce bankruptcy appeal protection so that she could foreclose or take the mortgaged assets of Pierce. A federal claim was filed supporting the claims for which this suit relies upon.

American General coached a federal employee into altering the bankruptcy protection appeal document of Pierce so that American General could take advantage of the state court case which respected the bankruptcy protection of Pierce. Pierce filed a claim with the federal government agency that regulates government employees working in the court system. Pierce received a right to sue via certified mail. The actual date of receipt is months pass the date of the right to sue letter.

Conclusion

Pierce has made a sufficient showing to establish the existence of elements to Pierce's case. The entire record is thus offered for review by the district judge of this case. Pierce seeks the following relief:

- 1- A ruling on Pierce's motion for permission to exercise Pierce opportunity to amend the complaint.
- 2- A ruling, which would recall the recommendation due to fairness and balance of recommendation.

Pierce further emphasis and informs this court that Pierce remains under threat from American General and the motion filed by Pierce in this court is outstanding and pending. American General is talking about something unknown to Pierce. Pierce is in court and not on the strength of 1983 but all relevant statues and amendments which allows Pierece the right to proceed against the foreign corporation known as defendant, American General and the federal employee for which a right to sue letter was issued to Pierce.

Respectfully submitted, Atheal Pierce

Appellant, Pro Se
112 Knollwood Blvd.
Montgomery, Alabama 36117
33-215-7525

Certificate of service

I Atheal Pierce, Appellant do hereby state that I have mailed a copy of pleading to the attorney for American General done this 28th day of June 2007.

A.P. A.P.

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When a state court case rides on bankruptcy protection then the adversary lawyer will be forced to deal with respecting the bankruptcy laws . See the legal drama outcome over the stolen and delayed dated appeal of Pierce at M.D. court docket sheet Pierce and American General on bankruptcy appeal at district court level.